

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MARLON JACKSON, *et al*,

Plaintiffs,

v.

CHRISTOPHER GOETZ, *et al*,

Defendants.

Civil Action No. 2:19-cv-258

Hon. William S. Stickman IV

Hon. Cynthia Reed Eddy

ORDER OF COURT

Plaintiffs, Marlon Jackson and Sandra Cole (“Plaintiffs”), filed a Complaint on March 8, 2019 (ECF No. 1) in the above captioned matter. In it, they asserted eight counts: Count 1 – First Amendment Retaliation; Count 2 – Excessive Force; Count 3 – Assault; Count 4 – Battery; Count 5 – Unlawful Seizure of Marlon Jackson; Count 6 – Unlawful Seizure of King; Count 7 – Malicious Prosecution of Marlon Jackson; and, Count 8 – Malicious Prosecution of Sandra Cole. (ECF No. 1). Defendants Christopher Goetz, Scott Brown and Robert Berberich (“Defendants”) filed a Motion to Dismiss along with a supporting brief on July 2, 2019. (ECF Nos. 17 and 18). Plaintiffs filed a Brief in Opposition on August 9, 2019 (ECF No. 30), which was followed by Defendants’ Reply Brief on August 23, 2019 (ECF No. 33). United States Magistrate Judge Cynthia Reed Eddy issued a Report and Recommendation on February 10, 2020, recommending that Defendants’ Motion to Dismiss be granted in part and denied in part. (ECF No. 35). More specifically, Magistrate Judge Eddy recommended that Count 7 be dismissed with prejudice, Count 8 be dismissed without prejudice, and that Plaintiffs be

permitted to proceed with all other claims. Objections to the Report and Recommendation were filed on February 24, 2020.

The Court, after its independent *de novo* review of the record, ADOPTS Magistrate Judge Eddy's Report and Recommendation as its Opinion. It overrules Defendants' Objections.

AND NOW, this 2nd day of March 2020, IT IS HEREBY ORDERED that Defendants' Motion to Dismiss (ECF No. 17) is GRANTED IN PART and DENIED IN PART. The Motion to Dismiss is GRANTED with respect to Counts 7 and 8. Count 7 is dismissed with prejudice, and Count 8 is dismissed without prejudice. The Motion to Dismiss is DENIED with respect to the remaining claims – Counts 1 through 6. Those claims may proceed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "W. S. Stickman IV", written over a horizontal line.

WILLIAM S. STICKMAN IV
UNITED STATES DISTRICT JUDGE